

**BOARD OF DENTISTRY
GENERAL BUSINESS MEETING AGENDA
February 17, 2017
Rosen Plaza Hotel
9700 International Drive
Orlando, Florida 32819
7:30 A.M.**

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

I. CALL TO ORDER/ROLL CALL

MEMBERS PRESENT

Joseph Thomas, DDS, Chair
Catherine Cabanzon, RDH, BASDH, Vice Chair
Joseph Calderone, DMD
T.J. Tejera, DMD
William Kochenour, DDS
Robert Perdomo, DMD,
Angela Sissine, RDH
Claudio Miro, DDS
Naved Fatmi, DMD
Tim Pyle, Consumer member

COURT REPORTER

American Court Reporting
Cindy Green
(407) 896-1813
ReportingOrlando@aol.com

STAFF PRESENT

Jennifer Wenhold, Executive Director
Jessica Sapp, Program Administrator

BOARD COUNSEL

David Flynn, Esq.
Assistant Attorney General

PROSECUTING ATTORNEY

Bridget McDonnell, Esq.
Asst. General Counsel, PSU
Candace Rochester, Esq.
Asst. General Counsel, PSU
Raj Misra, Esq.
Asst. General Counsel, PSU

Dr. Thomas introduced Ms. Louise St. Laurent as the new Deputy General Counsel. Ms. Rochester introduced Mr. Misra as the new staff attorney who joined the dentistry team in November 2016.

Dr. Thomas introduced Dr. Alexis Polles, the incoming Medical Director for the Professionals Resource Network (PRN).

Ms. Cabanzon read the mission, vision and purpose.

Mission: To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

Vision Statement: Healthiest State in the Nation

Purpose: To protect the public through health care licensure, enforcement and information.

II. SUNSHINE LAW REVIEW

Mr. Flynn provided the board an overview of the Sunshine Law and the bill relating to public meetings.

III. REVIEW OF MINUTES

The minutes of the above meetings were reviewed and the following action was taken by the Board:

A. August 26, 2016 Board Meeting

Motion: by Dr. Perdomo to approve

Second: by Kochenour

Vote: Unanimous

B. November 18, 2016 Board Meeting

Motion: by Dr. Perdomo to approve

Second: by Tejera

Vote: Unanimous

C. December 22, 2016 Board Meeting

Motion: by Dr. Calderone to approve

Second: by Tejera

Vote: Unanimous

IV. INTRODUCTION OF DR. THOMAS HAND, DDS

Mr. Pyle introduced Dr. Thomas Hand, DDS, who was featured on the Today show for his service to the elderly population and his dedication to the dentistry profession. Dr. Hand addressed the board.

V. REPORTS

A. Board Counsel

- i. Annual Regulatory Plan 2016-2017
- ii. Rule Making Timeline
- iii. Statement of Estimated Regulatory Cost (SERC) Summary
- iv. SERC Checklist Form
- v. Request for Rule Hearing

B. Executive Director

- i. Delegation of Authority

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The board reviewed the delegation and requested clarification on the review of anesthesia application by the Executive Director. Staff explained that the Anesthesia Chairman reviews all anesthesia applications and staff schedules the initial inspections and approves the application only after confirmation from the chairman. Staff will revise the delegation to add review by anesthesia chairman, committee, or board.

After discussion, the following action was taken:

Motion: by Dr. Tejera to table to the next meeting with amendment

Second: by Ms. Sissine

Vote: Unanimous

ii. Rule Reduction Project

Ms. Wenhold explained the project and how it is necessary for the Board to reduce lines of regulation. Board counsel will continue to work through the Rules Committee to streamline the rules.

iii. 2017 Legislation

Bill Relating to Health Care Access

Ms. Wenhold provided the Board with the portion of the Department package that related to the dental practice act. This bill will eliminate the requirement of the licensing exam be graded by Florida licensed dentists and dental hygienists.

iv. Anti-Trust Update

v. Financial Reports

C. Chairman

D. Vice-Chair

E. Board Members

i. Dr. Fatmi, Rules Committee Update; CE Guidebook

Dr. Fatmi provided the Board with an overview of the Rules Committee meeting held on January 10, 2017. The following rules were discussed and brought before the board to consider revision.

64B5-4.005 Advertising of HIV / AIDS Status

~~64B5-4.005 Advertising of HIV / AIDS Status~~

(1) Public fear regarding the possibility of HIV transmission from health care workers to patients, although scientifically unfounded, has resulted in concerns regarding the safety of dental care. In order to prevent the inappropriate exploitation of such fears and the fostering of such concerns, the advertising of dental health care workers' HIV status must be sufficiently regulated.

(2) Public misunderstanding of the significance of HIV test results may cause an inappropriate reliance on negative test results. Reliance on test results may diminish vigilance necessary for the success of universal precautions in the safe practice of dentistry. HIV antibody testing is extremely accurate in detecting existing HIV antibodies. However, there are limitations to the testing technology. The "window"

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period between infection and the appearance of HIV antibodies may produce false negative results. The existence of this “window” period diminishes the reliability of any negative test results.

(3) It is the position of the Board of Dentistry that HIV/AIDS issues are best handled on an individual basis directly between patients and dental health care workers. However, if such advertising is to be utilized the following guidelines must be followed:

(a) No dental health care licensee may represent that he or she is HIV negative or free from AIDS. Only representations as to test results may be advertised or noticed; and

(b) Any such advertisement or notice must clearly state the following:

THIS NEGATIVE HIV TEST CANNOT GUARANTEE THAT I AM CURRENTLY FREE OF HIV.

(c) Any referral or endorsement of a dental health care licensee based upon the licensee’s negative HIV test result must clearly state the following:

THIS NEGATIVE HIV TEST CANNOT GUARANTEE THAT THE PERSON TESTED IS CURRENTLY FREE OF HIV.

(d) Any representation as to a dental health care licensee’s HIV test results must include the exact date of the HIV test result that is the basis of such representations.

(e) No dental health care licensee may state or imply in any advertisement or notice of his or her own HIV test results that any other licensee is or may be a greater risk to patients due to a failure or refusal to provide similar advertising or notice.

(f) Any dental health care licensee who advertises or provides notice of his or her HIV test results must produce upon the request of a patient, a prospective patient, a former patient, or a Department of Health Investigator, an original HIV test result provided by a clinical laboratory regulated by the Department of Health, indicating the result of an HIV test. If the advertisement or notice states that the dental health care licensee has tested negative for HIV, the required test result must indicate a negative result.

The committee voted to repeal this rule.

Motion: by Dr. Tejera to ratify the committee’s decision

Second: by Ms. Cabanzon

Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

64B5-12.013 Continuing Education

64B5-12.013 Continuing Education Requirements; Specific Continuing Education Course Requirements; and Cardio pulmonary Resuscitation (CPR) Certification

- 1) **Minimum Continuing Education Hours:** During each licensure biennium renewal period (biennium), dentists shall complete a minimum of 30 hours of continuing education and dental hygienists shall complete a minimum of 24 hours of continuing education.
- 2) **Prevention of Medical Errors and CPR Certification:** During each biennium or for reactivation of a license the dentist and dental hygienist shall complete the following specific continuing education, training and certification:
 - a. A Board-approved two (2) hour continuing education course on the prevention of medical errors. To be approved by the board, the course shall include a study of root cause analysis, error reduction and prevention, and patient safety. This course shall count towards the requirement of subsection (1).
 - b. Training in cardiopulmonary resuscitation (CPR) at the basic support level, including one-rescuer and two-rescuer CPR for adults, children, and infants; the relief of foreign body airway obstruction for adults, children, and infants; the use of an automatic external

defibrillator (AED); and the use of ambu-bags. The CPR training shall result in the certification or recertification by the American Heart Association, the American Red Cross or an entity with equivalent requirement. CPR training and certification shall be taken in-person. Online training and certification shall not be accepted by the board. CPR training and certification shall not court towards the requirement of subsection (1).

- 3) **Domestic Violence Continuing Education:** As a part of every third biennial licensure renewal or for reactivation of a license, the dentist and dental hygienist shall complete a board-approved two (2) hour continuing education course on domestic violence as defined in s. 741.28, F.S., which course shall cover the substantive areas set forth in s. 456.031, F.S. To be approved by the board, the course must be approved by any state or federal agency or professional association or be offered through a board-approved continuing education provider. This course shall court towards the requirement of subsection (1).

- 4) **HIV / AIDS Continuing Education:** No later than upon the first licensee renewal or for reactivation of a license, a dentist and dental hygienist shall complete a board approved two (2) hour continuing education course on human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS). To be approved by the board, the course shall consist of instruction on HIV/AIDS and infectious diseases pertinent to the practice of dentistry and dental hygiene which shall include instruction on, but need not be limited to, viral counts, hepatitis, sterilization and infection control requirements, identification of oral lesions associated with infectious disease, how the presence of infectious disease directly affects treatment decisions of dentists, and the subject areas set forth in s. 456.033, F.S.
 - a. The course shall also consist of education on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. However, any such course completed outside of Florida, which complies with this subsection shall be approved by the board if the licensee submits to the board a statement that he or she has reviewed and studied current Florida law as required in paragraph (4)(a) and current chapters 381 and 384, F.S.
 - b. Home study courses are permitted for the purposes of meeting the HIV/AIDS and infectious diseases pertinent to the practice of dentistry and dental hygiene, provided the home study courses complies with entirety of this subsection of the rule.
 - c. The HIV / AIDS course shall count towards the requirement of subsection (1).

- 5) **Award of Continuing Education Credit:** Continuing education credit shall be awarded only for educational experiences that are specifically appropriate for, and contain useful information directly pertinent to, dentistry or dental hygiene and only if received through the following methods:
 - a. By participating in courses offered by a board -approved continuing education provider.
 - b. By participating in courses offered by:
 - i. The American or National Associations and their constituent and component and affiliate dental associations and societies, including affiliated specialty organizations or a provider organization recognized by either the American or National Dental Associations;
 - ii. The American or National Dental Hygiene Association and their constituent and component associations and societies;
 - iii. The Academy of General Dentistry and its constituent and component organizations or a provider approved by the Academy of General Dentistry's National Sponsor Approval Program;
 - iv. A dental, dental hygiene or dental assisting school accredited by the American Dental Association's Commission on Dental Accreditation;

- v. A hospital, college, university, or community college, accredited by an accrediting agency approved by the United States Department of Education;
 - vi. The American Red Cross, American Heart Association, and the America Cancer Society; and
 - vii. An educational program or course associated with a medical school which is accredited by the American Medical Association's Liaison Committee for Medical Education.
- c. By participating in board-approved individual study pursuant to rule 64B5-12.018, F.A.C.
 - d. By participating in examination standardization exercises. Dentists and dental hygienists may receive a maximum of six (6) continuing education credits per biennium for participating in the dental hygiene exercise; dentists may receive a maximum of eight (8) continuing education credits for the dental clinical exercise; and dentists may receive a maximum of eleven (11) continuing education credits per biennium for participating in both exercises.
 - e. By participating in programs approved by the board pursuant to Rule 64B5-12.0185, F.A.C., that provide substantial pro bono dental and dental hygiene services to the indigent, to dentally underserved populations or to persons who reside in areas of critical need within Florida. Dentists and dental hygienists may obtain a maximum of seven (7) hours per biennium of required continuing education credit for participating in such programs. Continuing education credit shall be calculated at a ratio of 1 continuing education credit for each 1 hour of patient services provided to approved programs.
 - f. By participating as an expert witness in the review of disciplinary cases, a licensee may receive a maximum of eleven (11) hours of continuing education credit for completing five disciplinary cases in each biennium. By participating as an expert witness in the review of disciplinary cases, a licensee may receive a maximum of four (4) hours of continuing education credit for completing two disciplinary cases in each biennium. A maximum of eleven (11) hours in any one biennium may be earned toward license renewal.
 - g. By participating as part of a course at a dental, dental hygiene or dental assisting school accredited by the Commission on Dental Accreditation, its successor agency or other nationally recognized accrediting agency, an adjunct, part-time faculty member may receive three (3) continuing education hours per semester/quarter by providing the following requirements: application, documentation from the teaching institution which shall include the number of the semesters/quarters the licensee taught the course.
 - h. Up to four (4) hours of credit per renewal cycle may be earned by attending a meeting of the Board of Dentistry wherein disciplinary cases are considered. The licensee must check in with staff prior to the beginning of the disciplinary proceedings. After the conclusion of the meeting, Board staff will issue a certificate of attendance to the licensee. Credit hours shall be awarded on an hour for hour basis up to a maximum of four (4) hours. Credit hours may not be earned when the licensee attends a disciplinary case session as a party to a disciplinary action.
 - i. By participating as an anesthesia inspection consultant, a licensee may receive two hours of continuing education credit each biennium.

Motion: by Ms. Cabanzon to ratify the committee's decision

Second: by Dr. Tejera

Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

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64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation

64B5-12.019 Courses Required for Initial Licensure, Renewal, or Reactivation

(1) No license shall be granted and no license shall be renewed or reactivated unless the applicant or licensee submits confirmation to the Board that he or she has successfully completed, no later than upon first renewal, a Board-approved course on Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), and other infectious diseases pertinent to the practice of dentistry and dental hygiene and a Board-approved course on prevention of medical errors. All licensees must complete a Board approved two (2) hour continuing education course on domestic violence as defined in Section 741.28, F.S., as part of every third biennial licensure renewal.

(2) To receive Board approval, courses on HIV/AIDS and infectious diseases pertinent to the practice of dentistry and dental hygiene shall consist of instruction which shall include, but need not be limited to, viral counts, hepatitis, sterilization and infection control requirements, identification of oral lesions associated with infectious disease, how the presence of infectious disease directly affects treatment decisions of dentists, and the subject areas set forth under Section 456.033, F.S.

(3) Every such course for the purpose of obtaining initial licensure shall have a minimum of two (2) hours dedicated to the subject areas set forth. Every such course for the purpose of renewal or reactivation of licensure shall have no less than one (1) hour dedicated to the subject areas set forth. Furthermore, every such course shall include information on current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. However, any such course completed outside of Florida, which complies with the criteria set forth in paragraph (2) above shall be approved by the Board if the applicant or licensee submits to the Board a statement that he or she has reviewed and studied current Florida law and its impact on testing, confidentiality of test results, and treatment of patients. To fulfill the requirements of this paragraph every HIV/AIDS course shall include or each applicant or licensee shall review and study Chapters 381 and 384, F.S.

(4) Only courses on HIV/AIDS and infectious diseases pertinent to the practice of dentistry and dental hygiene that meet the requirements set forth in subsections 64B5-12.019(2) and (3), F.A.C., and that are offered in compliance with subsection 64B5-12.013(3), F.A.C., shall be and are hereby approved by the Board. Home study courses are permitted for the purpose of meeting the requirements of HIV/AIDS and infectious diseases pertinent to the practice of dentistry and dental hygiene education, provided they comply with the requirements set forth in subsections (2) and (3), above.

(5) Each applicant or licensee may submit confirmation of having completed a course which complies with subsections 64B5-12.019(1), (2) and (3), F.A.C., on the form prepared by the Department of Health and provided by the Board. Each licensee shall submit confirmation of having completed a Board-approved domestic violence continuing education course, on a form provided by the Board, when submitting fees for every third biennial renewal.

(6) The requirements of this rule shall also apply to the initial issuance and renewal of any permit held pursuant to Chapter 64B5-7, F.A.C. Confirmation of completion shall be submitted at the time of applying for an initial permit and biennially thereafter.

(7) Courses taken subsequent to licensure and for the purpose of compliance with the HIV/AIDS portion of this rule may be included by the licensee in the total continuing education hours required pursuant to subsections 64B5-12.013(1) and (2), F.A.C., as a condition of biennial license renewal.

(8) To receive Board approval, courses on domestic violence must be a minimum of 2 hours long, must cover the substantive areas set forth in Section 456.031, F.S., and must be approved by any state or federal government agency or professional association or offered by a Board-approved continuing education provider.

(9) To receive Board approval, courses on prevention of medical errors shall include a study of root cause analysis, error reduction and prevention, and patient safety. Every such course shall have a minimum of two (2) hours dedicated to the subject areas set forth.

The committee voted to repeal this rule.

Motion: by Dr. Calderone to ratify the committee's decision

Second: by Dr. Tejera

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Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

64B5-12.020 Courses Required for Initial Licensure, Renewal and Reactivation

~~64B5-12.020 Courses Required for Initial Licensure, Renewal and Reactivation~~

Licensed dentists and dental hygienists are required to complete the following continuing education during each license renewal biennium.

(1) Training in cardiopulmonary resuscitation (CPR) at the basic support level, including one-rescuer and two-rescuer CPR for adults, children, and infants; the relief of foreign body airway obstructions for adults, children, and infants; the use of an automatic external defibrillator (AED); and the use of ambu-bags resulting in certification or recertification by the American Heart Association, the American Red Cross or an entity with equivalent requirements.

(2) A course in the prevention of medical errors of at least 2 hours in relevant topics including a study of root cause analysis, error reduction and prevention, and patient safety.

The committee voted to repeal this rule.

Motion: by Dr. Calderone to ratify the committee's decision

Second: by Dr. Tejera

Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

64B5-13.005 Disciplinary Guidelines

64B5-13.005 Disciplinary Guidelines

(1) (a) through (iii) No Change

Violation	Minimum	Maximum
(jjj) Willfully failing to comply with s. 627.64194 or s. 641.513 with such frequency as to indicate a general business practice (Section 456.072(1)(oo), F.S.)		
First Offense	Reprimand and a \$5,000 fine	Probation with conditions and a \$7,500 fine
Second offense	Reprimand; Suspension for 6 months followed by Probation with Conditions; and \$8,000 fine	\$10,000 Fine and Revocation

The Committee voted to approve the amended language

Motion: by Dr. Calderone to ratify the committee's decision
Second: by Dr. Tejera
Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

64B5-15.004 Reexamination Fees

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A person applying to retake the dental or the dental hygiene examination, or any portion or part thereof, must pay the appropriate applications and reexamination fees. The reexamination fee for the practical portion of the dental examination, or any part of the practical portion of the dental examination shall be \$345.00; the reexamination fee for the practical portion of the dental hygiene examination shall be \$200.00; the reexamination fee for the manual skills examination shall be \$250.00; the reexamination fee for the diagnostic skills portion of the dental examination shall be \$30.00 plus the costs of the examination; and the reexamination fee for the written portion of the dental examination shall be \$50.00 and the dental hygiene examination shall be \$25.00.

The committee voted to repeal this rule.

Motion: by Dr. Calderone to ratify the committee's decision
Second: by Dr. Tejera
Vote: Unanimous

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

Remediation CE Guidebook

Dr. Fatmi, along with Dr. Haddix and Dr. Romer, recently worked to update the CE Guidebook. A copy was provided to Board members.

ii. Ms. Cabanzon, Hygiene Council Update

The council discussed the use of Silver Diamine Fluoride by dental hygienist and determined that it is a fluoride varnish approved by the Food and Drug Administration as a topical fluoride. The Council voted to amend Rule 64B5-16.006(3)(c) and 16.007(4) to add Silver Diamine Fluoride after fluoride varnish.

Dr. Tomar was present to have discussion with the board.
Dr. Don Ilkka with the Florida Dental Association addressed the board in opposition.

Motion: by Dr. Fatmi to add Silver Diamine Fluoride to Rule 64B5-16.006(3)(c) and 16.007(4)
Second: by Dr. Calderone
Vote: 6/2

Mr. Flynn will open the rule for development and bring language back to the board.

The committee considered the economic impact and determined that a Statement of Estimated Regulatory Cost was not necessary and the rule will not need legislative ratification.

iii. Dr. Miro, Anesthesia Committee Update

iv. CDCA Meeting Overview

Ms. Cabanzon, Dr. Fatmi, and Dr. Miro provided an overview of the CDCA annual meeting.

VI. DISCUSSION

A. Minimal Sedation, John Bitting, Esq., DOCS Education

This was provided for information only and will be placed on the next Anesthesia Committee agenda.

B. Florida Mission of Mercy Request

Motion: by Dr. Calderone to approve the FDA Foundation's request to permit out of state licensed dentists for their upcoming Mission of Mercy event

Second: by Dr. Tejera

Vote: Unanimous

C. Correspondence from the American Association of Orthodontics

VII. DISCIPLINARY PROCEEDINGS

A. Settlement Agreements

- i. Case Pulled
- ii. Jack Andrew Cline, DDS, Case Nos. 2011-04317, 2011-17614 (PCP – Morgan, Melzer; Britten, Tejera, Robinson)

Dr. Cline was present and sworn in by the court reporter. He was represented by Theresa Perez, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to extract decayed root canal tooth number 20, before proceeding with fixed prosthetic treatment.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$5,000.00 fine to be paid within two (2) years
- Costs of \$6,415.32 to be paid within two (2) years
- Level I (3-6 hour) Risk management course to be completed within two (2) years through an accredited dental university
- Level I (3-6 hour) Crown/Bridge course to be completed within two (2) years through an accredited dental university

- Successful completion of the Laws and Rules exam within two (2) years
- Patient reimbursement of out-of-pocket fees in the amount of \$1,980 and third party reimbursement in the amount of \$1,445 within two (2) years.

After discussion, the following action was taken:

Motion: by Dr. Kochenour to accept the amended Settlement which clarifies the level I course is 3-6 hours with verified competency.

Second: by Dr. Perdomo

Vote: Unanimous

- iii. John Markey Borchers, DMD, Case No, 2012-16681
(PCP – Melzer, Morgan, Britten, Thomas)

Dr. Borchers was present and sworn in by the court reporter. He was represented by Randolph Collette, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to allow for sufficient healing time following a surgical extraction before preparing and placing patient's fixed bridge.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Reprimand
- \$2,500.00 fine to be paid within six (6) months
- Costs of \$3,610.64 to be paid within six (6) months
- Level I (3-6 hours) Crown/Bridge course to be completed within twelve (12) months through an accredited dental university
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Kochenour to accept

Second: by Dr. Calderone

Vote: Unanimous

- iv. Dennis Johnson, DDS, Case No. 2015-18858
(PCP – Thomas, Britten, Fatmi)

Dr. Johnson was not present. He was represented by Randolph Collette, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing evaluate and treat the patients periodontal disease prior to placing a fixed bridge.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance

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- Letter of Concern
- \$2,500.00 fine to be paid within six (6) months
- Costs of \$1,921.26 to be paid within six (6) months
- Level I Ethics course to be completed within twelve (12) months through an accredited university
- Level I (3-6 hours) Periodontics course to be completed within twelve (12) months through an accredited university
- Level I (3-6 hours) Diagnose and Treatment course to be completed within twelve (12) months through an accredited university
- Successful completion of the Laws and Rules exam within twelve (12) months

Motion: by Dr. Calderone to waive Respondent's appearance

Second: by Dr. Kochenour

Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. Tejera to accept

Second: by Dr. Kochenour

Vote: Unanimous

v. Steven London, DDS, Case No. 2013-12411
(PCP – Melzer, Morgan, Perdomo)

Dr. London was present and sworn in by the court reporter. He was represented by Dennis Vandenberg, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing evaluate patient's periodontal health before commencing orthodontic treatment, failing to provide adequate diagnosis of patient's orthodontic condition prior to prescribing orthodontic devices, by failing to provide a proposed treatment plan, by failing to provide sufficient treatment, by failing to take a post-treatment radiograph, and by failing to provide a continuing treatment plan to address patient's remaining orthodontic treatment.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$2,500.00 fine to be paid within thirty (30) days
- Costs of \$9,000.00 to be paid within thirty (30) days
- Shall not engage in the practice of orthodontics until successful completion of a Level I (3-6 hours) Orthodontics course to be completed through an accredited dental university
- Patient reimbursement of out-of-pocket fees in the amount of \$3,523.97 and third party reimbursement if applicable, within thirty (30) days
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

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Motion: by Dr. Kochenour to accept
Second: by Calderone
Vote: Unanimous

vi. Johnny R. Peralta Lee, DMD, Case No. 2015-17852
(PCP – Thomas, Britten, Miro)

Dr. Lee was present and sworn in by the court reporter. He was represented by Randolph Collette, Esq.

Mr. Misra summarized the case for the board. Respondent was charged with violating Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to inform patient that a portion of root canal file had broken off and retained within the root for tooth #30 during the procedure.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$2,500.00 fine to be paid within six (6) months
- Costs of \$ to be paid within six (6) months
- Level I Ethics course to be completed within eighteen (18) months through an accredited university
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Kochenour to reject
Second: by Ms. Sissine
Vote: Unanimous

After discussion, the following action was taken:

Motion: by Dr. Kochenour to offer a counter agreement by adding a level 1 course in Endodontics and level 1 in Record Keeping
Vote: Unanimous

Respondent will respond to the counter offer within 10 days. After break, Mr. Collette confirmed that the Respondent accepted the counter offer.

vii. David Gaines, DDS, Case No. 2014-14968
(PCP – Melzer, Morgan, Winker)

Dr. Gaines was present and sworn in by the court reporter. He was represented by Randolph Collette, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with: **Count I:** Violation of Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history records justifying the course of treatment. **Count II:** Violation of Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to take a post-operative radiograph of tooth number 14 following root

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canal treatment, by failing to develop an appropriate treatment plan to address the patient's dental condition, and by failing to adequately perform crown preparation on teeth numbers 27, 28, and 29.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$5,000.00 fine to be paid within twenty-four (24) months
- Costs of \$6,000.00 to be paid within twenty-four (24) months
- Level I (3-6 hours) Crown and Bridge course to be completed within twelve (12) months through an accredited university
- Level I (3-6 hours) Endodontics course to be completed within twelve (12) months through an accredited university
- Level I (3-6 hours) Record Keeping course to be completed within twelve (12) months through an accredited university
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Fatmi to reject

Second: by Dr. Tejera

Vote: Unanimous

Motion: by Dr. Fatmi to offer a counter agreement by adding a Level 1 course in treatment planning and removing the level 1 course in Endodontics.

Second: Dr. Tejera

Vote: Unanimous

Respondent accepted the counter agreement

viii. Ernesto A. Valiente, DDS, Case No. 2014-20250
(PCP – Thomas, Britten, Calderone)

Dr. Valiente was present and sworn in by the court reporter. He was represented by Robin Black, Esq.

Ms. McDonnell summarized the case for the board. Respondent was charged with: **Count I:** Violation of Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice by failing to identify tooth #17 as the correct tooth to be extracted, by failing to notice his error before discharging the patient, and/or by having an indemnity paid as a result of negligent conduct. **Count II:** Violation of Section 466.028(1)(mm), Florida Statutes, through a violation of Section 466.028(1)(bb), Florida Statutes, by performing a wrong-site procedure, or an authorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Reprimand
- \$2,500.00 fine to be paid within six (6) months

- Costs of \$3,500.00 to be paid within six (6) months
- Patient reimbursement of out-of-pocket fees and third party reimbursement if applicable
- Successful completion of the Laws and Rules exam within twelve (12) months

After discussion, the following action was taken:

Motion: by Dr. Tejera to reject
 Second: by Ms. Sissine
 Vote: Unanimous

Motion: by Dr. Tejera to offer a counter agreement that changed the reprimand to a Letter of Concern, removes the fine, remove patient reimbursement, keep remainder of terms.
 Second: Dr. Kochenour
 Vote: Unanimous

Respondent accepted the counter offer.

- ix. Charlotte Yvonne Gerry, DDS, Case No. 2013-11395
 (PCP – Britten, Tejera, Robinson)

Case pulled

- x. Phyllis Laura Thompson, DH, Case No. 2015-1015
 (PCP – Thomas, Britten, Cabanzon)

Ms. Thompson was present and sworn in by the court reporter.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(mm), Florida Statutes, through a violation of Section 466.028(1)(hh), Florida Statutes, by failing to complete her contracted PRN treatment program.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Letter of Concern
- \$1,000.00 fine to be paid within twenty-four (24) months
- Costs of \$767.29 to be paid within twenty-four (24) months
- Suspension of license until Respondent has been deemed safe to practice by an approved impaired practitioner treatment program

After discussion, the following action was taken:

Motion: by Dr. Tejera to reject
 Second: by Dr. Fatmi
 Vote: Unanimous

Motion: by Dr. Tejera to offer a counter agreement that removes the \$1000.00 fine and keeps remaining terms

Second: by Dr. Kochenour
Vote: Unanimous

Respondent accepted counter offer.

B. Determination of Waiver and Final Order by Hearing Not Involving Disputed Issues of Material Fact

- i. Richard Lipman, DDS, Case No. 2015-09997
(PCP – Thomas, Britten, Miro)

Dr. Lipman was not present nor represented by counsel.

Ms. McDonnell summarized the case for the board. Respondent was charged with violating Section 466.028(1)(mm), Florida Statutes, through a violation of Rule 64B5-17.001, F.A.C., by providing dental services to a patient with having dental malpractice insurance or an irrevocable letter of credit.

Motion: by Dr. Tejera to find the Administrative Complaint was properly served.
Second: by Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Tejera to find that the Respondent has waived the right to a proper hearing.
Second: Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Tejera to accept into evidence the final investigative file for the purposes of establishing a prima facie case for a violation of the Florida Statutes as charged in the Administrative Complaint.
Second: Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Tejera to find that the findings of fact support a finding of a violation of Florida Statutes, as charged in the Administrative Complaint.
Second: Dr. Kochenour
Vote: Unanimous

Motion: by Dr. Kochenour to find Respondent is in violation of the practice act, as charged in this Administrative Complaint.
Second: by Dr. Tejera
Vote: Unanimous

Motion: by Dr. Kochenour to find aggravating factors based on past disciplinary cases and to revoke Respondent's license.
Second: by Dr. Tejera
Vote: Unanimous

C. Voluntary Relinquishments

- i. Joseph Gorfien, DDS, Case No. 2016-12934

(PCP – Thomas, Tejera)

Dr. Gorfien was present and sworn in by the court reporter. He was represented by Randolph Collette, Esq.

Ms. McDonnell presented the cases which consist of the following violations: Section 466.028(1)(mm), Florida Statutes, through a violation of Section 456.072(1)(c), Florida Statutes, by entering a plea of guilty to crimes related to the practice of dentistry; Section 466.028(1)(x), Florida Statutes, by failing to meet the minimum standards of practice; Section 466.028(1)(m), Florida Statutes, by failing to keep written dental records and medical history records justifying the course of treatment; Section 466.028(1)(j), Florida Statutes, by making or filing a report which the licensee knows to be false; Section 466.028(1)(t), Florida Statutes, by committing fraud, deceit, or misconduct in the practice of dentistry; Section 466.028(1)(s), Florida Statutes, by being unable to practice dentistry with reasonable skill and safety.

Dr. Gorfien asked the board to allow him to apply for licensure in the future and requested his criminal attorney be present.

Motion: by Dr. Calderone to continue the case until the next board meeting
Second: by Dr. Fatmi
Vote: 5/3

- ii. Joseph Gorfien, DDS, Case No. 2014-00011
(PCP – Melzer, Morgan, Winker)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- iii. Joseph Gorfien, DDS, Case No. 2014-10921
(PCP – Thomas, Fatmi, Britten)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- iv. Joseph Gorfien, DDS, Case No. 2013-12961
(PCP – Melzer, Morgan, Winker)

Motion: by Dr. Tejera to continue
Second: by Dr. Perdomo
Vote: Unanimous

- v. Joseph Gorfien, DDS, Case No. 2012-11964
(PCP – Britten, Tejera, Robinson)

Motion: by Dr. Kochenour to continue
Second: by Dr. Fatmi
Vote: Unanimous

- vi. Joseph Gorfien, DDS, Case No. 2011-17150
(PCP - Britten, Tejera, Robinson)

Motion: by Dr. Kochenour to continue
Second: by Dr. Perdomo
Vote: Unanimous

- vii. Joseph Gorfien, DDS, Case No. 2011-07237
(Morgan, Melzer, Thomas, Britten)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- viii. Joseph Gorfien, DDS, Case No. 2016-14011
(PCP Waived)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- ix. Joseph Gorfien, DDS, Case No. 2016-12930
(PCP – Thomas, Robinson, Fatmi)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- x. Joseph Gorfien, DDS, Case No. 2016-25224
(PCP Waived)

Motion: by Dr. Tejera to continue
Second: by Dr. Kochenour
Vote: Unanimous

- xi. Felicia Dember, DR, Case No. 2014-04503
(PCP Waived)

Ms. Dember was not present nor represented by counsel.

Ms. McDonnell presented the case which consist of the following alleged violations: Section 456.072(1)(k)(z)(dd)(hh) and 466.028(1)(i)(s)(mm), Florida Statutes.

Motion: by Mr. Pyle to accept the voluntary relinquishment
Second: by Dr. Calderone
Vote: Unanimous

VIII. PROSECUTION REPORT

A. Bridget McDonnell, Assistant General Counsel

Legal Case Status	Prosecutor's Report Dated July 7, 2016	Prosecutor's Report Dated Aug. 23, 2016	Prosecutor's Report Dated Oct. 17, 2016	Prosecutor's Report Dated Nov. 14, 2016	Prosecutor's Report Dated Feb. 17, 2017
Total cases open/active in Prosecution Services:	379	365	376	316	307
Cases in intake status:	19	6	10	3	19
Cases in holding status:	0	0	0	0	0
Cases in Emergency Action Unit:	4	4	5	5	4
Cases under legal review:	231	194	191	204	180
Cases awaiting supplemental investigation:	9	7	7	4	1
Cases where a recommendation has been made for future Probable Cause Panel meetings:	63	92	112	46	53
Total cases where probable cause has been found	71	77	72	65	74
Cases pending before DOAH:	0	1	3	1	1

Cases agendaed for current or future Board meeting:	15	16	14	10	22
Cases pending before Appeals Court:	0	0	0	0	0
Cases a year or older:	159	145	137*	109**	100***

Motion: by Ms. Cabanzon to allow PSU to continue prosecuting year old cases.
 Second: Dr. Perdomo
 Vote: Unanimous

Ms. McDonnell discussed the Expert Witness application with the board to determine if any changes should be made. The application will be sent to the PCP panel for revisions and updates.

IX. PROBATION APPEARANCE

A. Dr. Alexander Gaukhman, DN 15657

Case Nos. 2013-09716, 2013-13078, 2014-05717, 2014-06673, 2014-07097, 2014-17433, 2015-21213

Dr. Gaukhman was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq. His proposed monitor, Dr. Havens was present and sworn in.

Dr. Gaukhman appeared before the Board on November 18, 2016 but his monitor was denied. His appearance is required as this is his first board appearance following the commencement of his probation.

After discussion, the following action was taken:

Motion: by Dr. Perdomo to approve
 Second: by Dr. Kochenour
 Vote: Unanimous

X. PETITION FOR WAIVER OF RULE

A. Ronda Moore, DDS

Petition for Variance or Waiver of Rule 64B5-14.003

Dr. Moore was present and sworn in by the court reporter.

She has applied for a Pediatric Sedation Permit and filed a Petition for Waiver of Rule

64B5-14.003, F.A.C. as she exceeds the timeframe for residency completion.

After discussion, the following action was taken:

Motion: by Dr. Tejera to deny the petition and allow her time to obtain 20 additional cases at her upcoming employment at the University of Florida.

After further discussion, Dr. Tejera withdrew his motion.

Dr. Moore withdrew her petition.

Dr. Moore waived her 90 days so that her application remains open while she completes her 20 sedation cases.

XI. PETITION FOR DECLARATORY STATEMENT

A. Madhu Nair, DMD

Petition for Declaratory Statement of s. 466.006(3), F.S.

Dr. Nair was present and sworn in by the court reporter. He was represented by Susan Collingwood, Esq.

He filed a petition to seek clarification from the Board as to whether or not providing consultation on Cone Beam Computerized Tomography (CBCT) images, without an active Florida Dental license, is permissible and whether or not it is considered the practice of dentistry. He currently holds a Dental Teaching Permit.

Mr. Flynn asked the board if reading radiographs is a diagnosis. The board stated that when reading radiographs and producing a report, that is the practice of dentistry.

After discussion, Dr. Nair withdrew his petition.

XII. REVIEW OF APPLICATIONS

A. Harrison Black, DMD

Application for Pediatric Conscious Sedation

Dr. Black was present and sworn in by the court reporter. His application was placed on the agenda for consideration of his anesthesia permit application.

After discussion, the following action was taken:

Motion: by Dr. Tejera to approve

Second: by Dr. Kochenour

Vote: Unanimous

B. Marc Friduss, DDS

Application for Temporary Certificate

Dr. Friduss was present and sworn in by the court reporter. His application for a Dental Temporary Certificate was placed on the agenda for consideration due to his past

disciplinary history.

After discussion, the following action was taken:

Motion: by Dr. Kochenour to deny based on prior discipline

Second: by Ms. Sissine

Vote: Unanimous

**C. Thomas Figliorelli, Jr., DMD
Application for Teaching Permit**

Dr. Figliorelli was present and sworn in by the court reporter. His application for a Teaching Permit was placed on the agenda for consideration due to his past disciplinary history and criminal history.

After discussion, the following action was taken:

Motion: by Ms. Sissine to approve

Second: by Dr. Perdomo

Vote: Unanimous

XIII. FOR YOUR INFORMATION

- A. The National Association of Dental Laboratories News Article**
- B. ADA News Article**
- C. Introduction Letter from the Florida Dental Hygiene Association**
- D. Board Member Travel Reimbursement Process**
- E. Self-Inspection Industry Notification Letter**
- F. Aspen Dental MouthMobile – Healthy Mouth Movement**

XIV. NEW BUSINESS

A. 2018 Board Meeting Dates

February 16, 2018

May 18, 2018

August 24, 2018

November 16, 2018

Motion: by Dr. Calderone to approve the proposed dates

Second: Dr. Tejera

Vote: Unanimous

XV. OLD BUSINESS

XVI. ADJOURNMENT – 2:24 p.m.

February 17, 2017

Board of Dentistry Meeting Minutes

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